

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JEFFREY MARK CLARK,

Petitioner,

No. 2:20-cv-00435-MK

v.

ORDER

BRAD CAIN,

Respondent.

AIKEN, District Judge.

Magistrate Judge Mustafa T. Kasubhai has filed a Findings and Recommendation (“F&R”) recommending that the Amended Petition for Writ of Habeas Corpus, ECF No. 53, be denied on the basis that Petitioner has not made a sufficient showing of the denial of a constitutional right. ECF No. 67. Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of

the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Petitioner has filed Objections, ECF No. 73, and Respondent has filed a Response to the Objections. ECF No. 74. The Court has reviewed the F&R, the Objections, Response, and the record and finds no error. The Court therefore ADOPTS the F&R, ECF No. 67. The Amended Petition for Writ of Habeas Corpus, ECF No. 53, is DENIED on the basis that Petitioner has not made a substantial showing of the denial of a constitutional right. Final judgment shall be entered accordingly.

It is so ORDERED and DATED this 19th day of April 2023.

/s/Ann Aiken

ANN AIKEN

United States District Judge